

rejections were based on anticipation. She repeats the argument concerning the discovery of a previously unappreciated property of a prior art composition and cites case law (*Atlas Powder Co, vv. Ireco Inc.* and *In re Best*) that deal with issues of anticipation and novelty. She does allege that it would be obvious to one of ordinary skill in the art to have incorporated the amylase as disclosed by GB '547, since Syed discloses repeated coloring and bleaching cause structural damage to the hair, and in GB '547 it is taught that the amylase provides a protective property to the hair, such as smoothness and body.

Syed is concerned with a particular type of hair that is subject to damage by repeated coloring, bleaching and permanent waving. This is what is referred to in Syed as excessively curly hair that requires relaxers as described in Ethnic Hair Care: History, Trends and Formulation. To minimize this damage, Syed teaches application of a starch hydrolysate, or film forming polymers such as polypolyquaterniums.

The present invention is concerned with extending or improving the color durability and stability of artificially colored hair, by applying pregelatinized amylose-containing starch. The present invention is not concerned with providing a protective property to the hair, such as smoothness and body, and it is certainly not concerned with minimizing damage to a particular type of hair that is subject to damage from harsh chemical treatments. The present invention teaches use of a composition of which Syed provides no hint, and for reasons distinct from those of Syed, for application of the composition for reasons distinct from the reasons of GB '547, which is not even concerned with artificial color on hair.

The above discussion is equally applicable to the combination of Paul et al. (US 6,344,183), which also does not disclose applying the composition to artificially colored hair, and Syed et al.

#### **New claims 31-35**

Applicants submit that new dependent claims 31-35 are also directed to subject matter that is patentable over the cited references. Specifically, claim 31 recites that the

composition further comprises a polyquaternium compound. Claims 32 and 33 further define types of polyquaternium compounds, and claim 34 recites that the composition further comprises a blend of quaternium compounds. It is respectfully submitted that none of the cited references appear to disclose a method of applying to artificially colored hair a composition comprising at least pregelatinized amylose starch in combination with polyquaternium compounds. Claim 35 has been added to recite that the nonionically modified starch of claim 23 is hydroxypropyl starch. For at least these additional reasons, claims 31-35 are patentable over the cited references.

### **Conclusion**

In view of the amendments and arguments set forth above, Applicants respectfully submit that the pending application is in condition for allowance. Notice to this effect is earnestly solicited.

Respectfully submitted,



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